



A Publication of the
DEPARTMENT OF REGULATION AND LICENSING
FOR CHARITABLE ORGANIZATIONS, PROFESSIONAL FUND-RAISERS
Volume 11, No. 1 AND FUND-RAISING COUNSEL June, 1999

Renewal of Registration

The Department will send renewal notices to all registered charitable organizations in the middle of June. The renewal deadline will be July 31, 1999. Registrants who do not timely file a renewal application may not solicit contributions until they file a late application for renewal and receive a renewed registration. The renewal fee is \$15. Any organization that files after August 1 will be required to pay \$15, **plus a \$25 late application fee.**

Proposed Administrative Rule Changes

As you know, the Department has been working on revisions to the administrative rules. We accomplished our goal and new rules will become effective on June 1, 1999. The new rules make a few technical changes and they include the following substantive provisions:

A definition of "central organization" is created to mean a charitable organization that has one or

more affiliated subunits under its general supervision and control, such as a chapter, local, post or unit.

A new Section RL 5.075 is created to read:

RL 5.075 Criteria relating to registration as a professional fund-raiser or a fund-raising counsel. (1)

In determining whether a person is required to register as a fund-raising counsel under s. 440.43, Stats., or a professional fund-raiser under s. 440.44, Stats., the department evaluates the obligations of the person to determine whether the persons responsibilities are limited to preparing and sending mailings for a registered charitable organization as distinguished from the function of making a mailing under the person's own name.

(2) For the limited purpose of determining whether a person is required to register as a professional fund-raiser under s. 440.44, Stats., a person does not "solicit" in this state or employ, engage or provide, directly or indirectly, another person to "solicit in this state" as those terms are used in s. 440.41(7), Stats., if all of the following apply:

- (a) The person mails requests for contributions.
- (b) The contents of the mailing identify a charitable organization as the person requesting the contributions.
- (c) The contents of the mailing do not include the name of the professional fund-raiser or the fund-raising counsel.

**CHARITABLE ORGANIZATIONS,
PROFESSIONAL FUND-RAISERS AND
FUND-RAISING COUNSEL**

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Finally, the proposal raises, in certain specific situations, the threshold contribution amount which results in the need for an audit with opinion. The proposed new language would say: “RL 5.08(3m) EXCEPTION FOR CONTRIBUTION LIMIT REQUIRING AN AUDIT WITH OPINION. The \$100,000 contribution limit in sec. 440.42(3)(b), Stats., is raised to \$175,000 if a charitable organization has received during its most recently completed fiscal year one or more contributions from one contributor totaling \$75,000 or more.”

The primary purpose of this change is to respond to requests from small charitable organizations which usually receive contributions totaling less than \$100,000 and which, therefore, usually are not required to file an audit with opinion. Occasionally such an organization will contact the Department and inform the Department that the organization received an unexpected large contribution which will place it over the \$100,000 figure. This means that the organization will have to obtain an audit with opinion for which it had not budgeted.

Registration of Fund-Raising Counsel

The Department is still planning on having a legislative proposal introduced this Legislative Session that would require all fund-raising counsel that assist Wisconsin-registered charitable organizations to register with the Department as fund-raising counsel. Those that receive and hold contributions for a registered charitable organization would be required to obtain a \$20,000 bond. Others would be required to obtain a \$5,000 bond.

We will keep you informed about the progress of this proposal and we will get the word out to fund-raising counsel if it becomes law. The Department believes that this change is needed, because the Department has had considerable correspondence with entities that are operating on the fringe between fund-raising counseling and professional fund-raising. Some entities should perhaps, be registered as professional fund-raisers; however, they are calling themselves fund-raising counsel and, seemly, opting for the simpler requirements that pertain to fund-raising counsel. Furthermore, the Department believes that it is better to register both fund-raising counsel and professional fund-raisers, and to give the Department authority to suspend or revoke the registration certificate of anyone in either category

who misleads contributors or otherwise violates the law.

Paid Charitable Solicitors

The Chronicle of Philanthropy, in its January 14, 1999, issue reported that paid charitable solicitors in 3 states received 60% or more of donations they collected. The reports were prepared by the states of Vermont, Washington and California. The January article, additionally, made the following comment: “...Donors are often unaware of how much of the gifts they make in response to telemarketing and other appeals is eaten up by solicitor’s fees. To combat that situation, regulators in numerous states have started to publicize how much of the money raised by professional solicitation companies actually goes to charity. Regulators hope the information will encourage consumers to maintain a healthy degree of skepticism when they are solicited and to learn to ask questions before giving.”

The state of Wisconsin also receives information about contracts and fees from professional fund-raisers; however, this information is currently not computerized and statistical reports can not easily be prepared. However, all such information is available to the public.

Annual Financial Reports

We seem to have a habit of repeating ourselves in issues of the Regulatory Digest; however, we know that small charitable organizations frequently change officers. Thus, we want to be sure that new officers don’t overlook some of the most significant requirements that pertain to all registered charitable organizations.

Each registered charitable organization must file an annual financial report or an affidavit which states why the organization believes it is exempt from filing a financial report. One or other of these documents is due to the Department within 6 months following the end of the organization’s fiscal year. Many registered charitable organizations have a fiscal year that ends at the end of June or the end of December. Some organizations, however, have a fiscal year that ends at another time. In any case, one of the hardest things for officials of charitable organizations to keep track of is that they must renew their registration certificate by July 1 each year and file their financial report or affidavit 6 months following the end of their fiscal year.

Exemptions From Registration

Certain charitable organizations are not required to be registered. We frequently send to charitable organizations Form #1954, to help them determine whether they must register or not.

Currently-registered charitable organizations may also use this form to re-assess whether they must still be registered. Excerpts from the form are printed below:

- ☐ We have reviewed the 11 reasons listed below for a charitable organization being exempt from registering as a charitable organization with the Wisconsin Department of Regulation and Licensing and we have concluded that we must register. Please send an application form to us.
- ☐ We believe we are not required to register as a charitable organization with the Wisconsin Department of Regulation and Licensing because: (Please check the statement that best fits your reason for exemption; therefore, do not check the box in front of the above paragraph.)
- ___1. We are not a charitable organization, as defined in sec. 440.41, Stats.
- ___2. We are a charitable organization, BUT WE DO NOT SOLICIT CONTRIBUTIONS.
NOTE: A private foundation, IF IT DOES NOT SOLICIT contributions, also falls under this exemption. See sec. 440.41, Stats., for the definition of “solicit” and “solicitation”.
- ___3. We are a religious entity that is exempt from filing a federal annual information return (Form #990) under sec. 6033(1)(2)(A)(i) and (iii) and (C)(i) of the Internal Revenue Code.
NOTE: SUMMARY OF EXEMPTIONS FOR FILING RETURNS
Section 6033(a)(2)(A)(i): Churches, their integrated auxiliaries, and conventions or associations of churches.
Section 6033(a)(2)(A)(iii): The exclusively religious activities of any religious order.
Section 6033(a)(2)(C)(i): A religious organization described in sec. 501(c)(3) of the Internal Revenue Code
- ___4. I am or we are a candidate for national, state or local office or a political party or other committee or group required to file financial information with the federal elections commission or a filing officer under sec. 11.02, Stats.
- ___5. We are a charitable organization which does not intend to raise or receive contributions in excess of \$5,000 during a fiscal year and all of our functions, including solicitation, are performed by persons who are unpaid for their services and no part of our assets or income inures to the benefit of, or is paid to, any officer or member of the charitable organization.
NOTE: If a charitable organization would otherwise be exempt under sec. 440.42(5)(a)3, Stats., but it raises or receives more than \$5,000 in contributions or pays someone to do fund-raising functions, it must, within 30 days register with the department.
- ___6. We are a fraternal, civic, benevolent, patriotic or social organization that solicits contributions solely from our membership.
NOTE: An initial membership, when conferred solely as consideration for making a grant or pledge of money in response to a solicitation, is a contribution.
- ___7. We are a veterans organization incorporated under Ch. 188, Stats., or chartered under federal law or the service foundation of a veterans organization recognized in the bylaws of the veterans organization.
- ___8. We are an educational institution or its authorized charitable foundations which solicit contributions only from our students and their families, alumni, faculty, trustees, corporations, foundations and patients.
- ___9. I am or we are a person soliciting contributions for the relief of a named individual and all contributions, without any deductions, were or will be given to the named individual.
- ___10. We are a state agency, as defined in sec. 20.001(1), Stats., or a local government unit, as defined in sec. 605.01(1), Stats.
NOTE: Section 20.001(1), Stats., reads: “‘State agency’ means any office, department or independent agency in the executive branch of Wisconsin State government, the legislature and the courts.”
NOTE: Section 605.01(1), Stats., reads: “‘Local governmental unit’ means any local governmental association, authority, board, commission, department, independent agency, institution, office, society or other body, including any city, county, town or village board or common council, school or library board, or board of control of a cooperative educational service agency.”
- ___11. We are a private school, as defined in sec. 118.165, Stats.
NOTE: Section 118.165, Stats., reads: “PRIVATE SCHOOLS. (1) An institution is a private school if its educational program meets all of the following criteria: (a) The primary purpose of the program is to provide private or religious-based education. (b) The program is privately controlled. (c) The program provides at least 875 hours of instruction each school year. (d) The program provides a sequentially progressive curriculum of fundamental instruction in reading, language arts, mathematics, social studies, science and health. This subsection does not require the program to include in its curriculum any concept, topic or practice in conflict with the program’s religious doctrines or to exclude from its curriculum any concept, topic or practice consistent with the program’s religious doctrines. (e) The program is not operated or instituted for the purpose of avoiding or circumventing the compulsory school attendance requirement under sec. 118.15(1)(a). (f) The pupils in the institution’s educational program, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than 2 months of summer vacation, or the institution is licensed as a child welfare agency under sec. 48.60(1). (2) An institution may request the state superintendent to approve the institution’s educational program as a private school. The state superintendent shall base his or her approval solely on the criteria under sub. (1).”

Department of Regulation and Licensing
Charitable Organizations and
Professional Fund-Raisers
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Whether A Person Is Licensed	Press 442
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Look for digest on the Web.

Visit the Department's Web Site

<http://badger.state.wi.us/agencies/drl/>
Send comments to dorl@mail.state.wi.us

Wisconsin Statutes and Code

Copies of the Statutes and Administrative Code relating to charitable organizations and fund-raising can be ordered from the Department. Include your name, address, county and a check payable to the Department of Regulation and Licensing in the amount of \$5.28. The latest edition is dated June 1997.

Change of Name or Address?

Please photocopy the mailing label of this digest, make changes in name or address, and return it to the

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WIS. STATS. S. 440.11 ALLOWS FOR A \$50 PENALTY TO BE IMPOSED WHEN CHANGES ARE NOT REPORTED WITHIN 30 DAYS.

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